

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PVMI INTERNATIONAL,
INC., assignee of MEDBOX
INCORPORATED,

Plaintiff,

Case No. 13-14775
Hon. Matthew F. Leitman

v.

DARRYL B. KAPLAN *et al.*,

Defendants and Counter-Plaintiffs,

v.

MEDBOX INCORPORATED,

Counter-Defendant

MEDVEND HOLDINGS, LLC,

Plaintiff,

Case No. 14-11749
(consolidated with Case No. 13-14775)

v.

MEDBOX INCORPORATED,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS-
COUNTER PLAINTIFFS' AND THIRD-PARTY PLAINTIFF'S MOTION
TO QUASH PORTIONS OF SUBPOENA TO ENVY TECH FUND I, LLC
AND ENVY-MEDVEND LOAN FUND, LLC (ECF #47)**

On June 19, 2015, the Court heard oral argument on the motion by Defendants-Counter Plaintiffs Darryl B. Kaplan, Claudio Tartaglia, and Eric Kovan, and Third-Party Plaintiff Medvend Holdings, LLC, to quash portions of the subpoenas to Envy Tech Fund I, LLC (ECF #48-4) and Envy-Medvend Loan Fund, LLC (ECF #48-3, collectively “the Supoenas”). (See the “Motion to Quash,” ECF #47.) For the reasons stated on the record at the hearing, **IT IS HEREBY ORDERED** that the Motion to Quash is **GRANTED IN PART** and **DENIED IN PART**, as follows.

The Motion to Quash is **GRANTED** to the extent that the Subpoenas seek documents (1) “exchanged ... during settlement negotiations” and (2) “authored or created for the purpose of settlement negotiations.” *Graff v. Haverhill North Coke Co.*, No. 09-670, 2012 WL 5495514, at *32 (S.D. Ohio Nov. 13, 2012) (interpreting *Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976 (6th Cir. 2003)). These documents are protected by the privilege for communications made in furtherance of settlement recognized in *Goodyear, supra*. Counsel for Defendants-Counter Plaintiffs and Third-Party Plaintiff shall serve upon the opposing parties a privilege log containing a brief description of all responsive documents that are withheld pursuant to the *Goodyear* privilege (or any claimed privilege).

The Motion to Quash is **DENIED** to the extent that the Subpoenas seek any final, executed settlement agreement and attachments or exhibits thereto. Counsel for Defendants-Counter Plaintiffs and Third-Party Plaintiff shall produce these documents to the Court for the Court's *in camera* review by no later than **July 13, 2015**. Documents produced to the Court shall be Bates stamped or otherwise numbered. The Court will review all documents produced by Defendants-Counter Plaintiffs and Third-Party Plaintiff to determine their relevance to this action. Counsel for Plaintiff-Counter Defendant may submit a supplemental notice describing its theories of the possible relevance of the requested materials by no later than **July 3, 2015**. Counsel for Defendants-Counter Plaintiffs and Third Party Plaintiff may respond by no later than **July 10, 2015**.

IT IS FINALLY ORDERED that the fact discovery cut-off date shall be September 30, 2015.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: June 22, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 22, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113